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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/442,885	11/18/1999	YUICHI TERUI	FUJR-16.680	6518
26304	7590	04/09/2004	EXAMINER	
KATTEN MUCHIN ZAVIS ROSENMAN 575 MADISON AVENUE NEW YORK, NY 10022-2585			LONSBERRY, HUNTER B	
		ART UNIT	PAPER NUMBER	
		2611	8	

DATE MAILED: 04/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/442,885	TERUI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Hunter B. Lonsberry	2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 January 2004.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6 and 12-16 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6 and 12-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## DETAILED ACTION

### ***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,953,506 to Kalra in view of U.S. Patent 5,805,203 to Horton and U.S. Patent 5,821,986 to Yuan.

Regarding claims 1,3, and 6, Karla discloses a system which includes a number of transcoders 124 and MPEG encoders 122 which encodes a number of sub band streams which, when combined, yield progressively higher quality MPEG video images, a graphics server in the head end continuously polls a client machine to observe network bandwidth and CPU constraints to dynamically update the number of streams which are to be sent to a specific machine where they are decoded based upon the current conditions (Figures 15-16, column 3, line 66-column 4, line 32, column 5, line 4-column 6, line 53, column 8, line 33-65, column 14, line 34-column 19, line 64).

Karla does not disclose error status monitoring means to monitor the error status of each terminal and sending that status message to the video data distribution unit and forcing intraframe coding if there are too many errors.

Horton discloses a global connection manager 11 which monitors the connection between customer premises equipment 2 and a service node 1 which includes a transmitter receiver 16, manager 11 continuously monitors both the upstream and downstream connections to remote user equipment for the noise levels for those connections, depending upon that noise level additional bandwidth may be dynamically allocated to the data channel for the user, additionally upon determining a noise level the encoding factor may change to a more noise immune level or to a faster data transfer rate (column 3, lines 54-column 4, line 17, column 5, line 27-column 7, line 19).

Yuan discloses a system in which errors are monitored, if errors past a certain threshold is detected, the macroblocks are forced to be coded with intraframe coding (column 16, line 17-column 17, line 7).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the dynamic encoding feature of Karla to include the noise monitoring and dynamic encoding features of Horton and forced intraframe coding of Yuan in order to compensate for transmission errors.

Regarding claims 2 and 4, Horton discloses a downstream data-encoding factor, which determines the data rate to transmit at to a specific device (column 5, table 1, lines 28-column 7, line 19).

Regarding claim 5, Horton discloses varying the traffic every 10 seconds (column 15, lines 33-44).

Regarding claim 12, Karla discloses a system, which dynamically transmits video programs to a user depending on current conditions. Karla/Horton do not disclose providing information on what video programs are being submitted. The examiner takes official notice that transmitting an electronic program guide to a user to display what programs are being transmitted is well known in the art. Therefore it would have been obvious to one skilled in the art at the time of invention to modify Karla/Horton to transmit an EPG so that a user would know what programs they could choose from.

Regarding claims 13-15, Karla discloses a system which includes a number of transcoders 124 and MPEG encoders 122 which encodes a number of sub band streams which, when combined, yield progressively higher quality MPEG video images, a graphics server in the head end continuously polls a client machine to observe network bandwidth and CPU constraints to dynamically update the number of streams which are to be sent to a specific machine where they are decoded based upon the current conditions (Figures 15-16, column 3, line 66-column 4, line 32, column 5, line 4-column 6, line 53, column 8, line 33-65, column 14, line 34-column 19, line 64).

Karla does not disclose error status monitoring means to monitor the error status of each terminal and sending that status message to the video data distribution unit and forcing intraframe coding if there are too many errors.

Horton discloses a global connection manager 11 which monitors the connection between customer premises equipment 2 and a service node 1 which includes a

transmitter receiver 16, manager 11 continuously monitors both the upstream and downstream connections to remote user equipment for the noise levels for those connections, depending upon that noise level additional bandwidth may be dynamically allocated to the data channel for the user, additionally upon determining a noise level the encoding factor may change to a more noise immune level or to a faster data transfer rate (column 3, lines 54-column 4, line 17, column 5, line 27-column 7, line 19).

Yuan discloses a system in which errors are monitored, if a errors past a certain threshold is detected, the macroblocks are forced to be coded with intraframe coding (column 16, line 17-column 17, line 7).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the dynamic encoding feature of Karla to include the noise monitoring and dynamic encoding features of Horton and forced intraframe coding of Yuan in order to compensate for transmission errors.

Regarding claim 16, Yuan discloses that interframe and intra frame coding may be used (column 10, lines 6-17).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,909,513 to Liang: Bit Allocation for Sequence Image Compression.

U.S. Patent 5,907,660 to Inoue: Digital Video Signal Playback Device with Special Playback Data Being in the Form of a Still Image Slice Data.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 703-305-3234. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HBL



VIVEK SRIVASTAVA  
PRIMARY EXAMINER